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Refer to Expandable 10 02 2006
file in C0070012. 2006. INCOMING
for additional information

VIA: Hand Delivered October 2, 2006

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Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84114-5801

C/007/012

RE: N06-37-1-1: Abatement Information (4-8)
Wellington Preparation Plant (C/007/012)

INTRODUCTION

Remedial actions numbers 1-3 required to abate the above-cited Notice of Violation (NOV) and responses to them were submitted August 7, 2006. Included in this package are responses to remedial actions 4-8, plus an additional action requested by the Division on July 7, 2006.

RESULTS

4) Remedial Action

a) Describe the management of the water flow of the Price River and to the Dryer pond including Table 7-24-1 of the MRP as 97-371, 91-216, 91-215, 91-254, 91-255,
b) protection of the soil in the vicinity of the pumphouse,
c) protection of the Price River.

Response

a) Water Rights

The NOV notes five water rights 91-371 (*91-371 = Typographical error?; the Division calls this Water Right No. 97-371; we are not sure if this is a Division typo or MRP typo; we will use the correct numbers here*), 91-216, 91-215, 91-254, and 91-255 for which protection should be

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demonstrated. All of these water rights are owned by NEICO. All of these water rights list industrial use as one of the valid beneficial uses to which the water right applies. All of these water rights except 91-254 list points of diversion and water sources as being the Price River and/or adjacent groundwater at the locations associated with the collection well and the pump house (91-254 has a point of diversion located near the track hopper, and the water source is shallow groundwater). Last, all of these rights allow the water to be used in Section 16 of T 15 S, R 11 E, which encompasses the locations near the so-called 'bog' and near the Dryer Pond. As such, the water in question is being used under valid water rights, and with allowable sources, points of diversion, beneficial uses, and places of use.

Further, the amount of water associated with the so-called 'bog' and the Dryer Pond inflow is well under that allowed under these rights. In response to NOV remedial action item 2, flow was estimated at 2 gallons per minute or 3.2 acre-feet per year. NEICO's water rights allow for diversion of more than 20 cfs, with an annual allowable volume of almost than 3,900 acre-feet diverted for industrial uses. The two areas in question, therefore, are using less than 0.1 percent of the amount allocated to the water rights.

In summary, water at the 'bog' and at the Dryer Pond is being used appropriately under valid water rights. Neither these rights, nor any other water rights held by others, are being compromised by these uses. Thus, water rights remain fully protected.

b) Pump House Soils

Soils in the vicinity of the reclaimed pump house were reseeded in 2005, as part of the area's temporary (or interim) reclamation work. Hummocks and gouges were created to maximize precipitation infiltration and minimize runoff and erosion. Observations in 2006 indicate that these reclamation techniques are working as planned, though plant establishment is still underway.

As with the other floodplain soils along the Price River, these soils are influenced by shallow groundwater, at least seasonally. Further, they may be saline, due to their Mancos Shale Formation origins and/or interactions with high-TDS water. Observations along the Price River show that the alluvial soils support numerous different plant communities, ranging from wetland to upland species, with varying degrees of salt

tolerance. Therefore, soils in the vicinity of the pump house are

expected to remain viable for plant growth, regardless of whether or not groundwater is discharging to the 'bog' area or being conveyed to the Dryer Pond.

As demonstrated, pump house vicinity soils remain fully protected. However, as requested by the Division, soil samples were collected from this area in September 2006 and are currently being processed for laboratory analyses at Brigham Young University. Once laboratory results are reported, data will be provided to the Division.

c) Price River

As discussed above, there is no impact to the Price River resulting from either the 'bog' or the Dryer Pond conveyance. Water is not being directly discharged from, or to, the river. Water from these areas is naturally commingling with, and part of, the Price River and its associated alluvial aquifer, and this will continue. NEICO has valid water rights to remove Price River water and groundwater from this area. Therefore, the Price River remains fully protected.

5) Remedial Action

Describe the use of the water in the Dryer Pond during operations.

Response

Water in the Dryer Pond currently comes from three sources: 1) groundwater conveyed by pipe from vicinity of the pump house on the east side of the Price River; 2) storm water runoff; and 3) precipitation falling directly to the pond.

When the water entering the Dryer Pond from the Clearwater Pipeline reaches the inlet culvert level, equilibrium is apparently achieved because the inflow stops. *In other words, water does not continue to rise to a level where water overflows the principal spillway of the pond.* Moreover, engineering calculations show that the volume of pipeline water entering the pond - *even at its maximum depth* - is less than the pond's design capacity.

Visual observations indicate that water levels remain fairly constant even with constant Dryer Pond inflow: evaporation and infiltration account for this balance. Thus, the Dryer Pond is serving as a reliable source of good quality water available to NEICO to be used as needed for industrial purposes as allowed by

the Utah Division of Water Rights. This water is not currently used continuously, but it is available when needed for dust control and reclamation activities, both of which are legitimate industrial uses. In the future, as operations on this property evolve, uses may change. In all cases, however, uses will remain consistent with applicable beneficial uses allowed under the water rights, or the appropriate Change Applications will be filed with the Division of Water Rights.

6) Remedial Action

Describe the reclamation of the Dryer Pond and stem (Division typographical error?; should it say "stop"?) the flow of the water into the pond or describe the indefinite and continued use of the diverted flows during reclamation and for a post mining land use.

Response

Detailed plans to eventually reclaim the Wellington Prep Plant, including the Dryer Pond, are included in NEICO's MRP. These details, which describe such items as regrading, soil preparation, and reseeding, remain correct as written. However, prior to those activities taking place at or near the Dryer Pond, inflows to the pond would be stopped and the pond would be drained, and allowed to dry. The Dryer Pond embankments, pond bottom, and adjacent soils would not be subject to heavy equipment or earthwork while saturated.

Dryer Pond inflow that is conveyed via a pipe from the shallow groundwater east of the Price River would be stopped somewhere near its origin. Because there are no detailed engineering drawings available to discern exactly where water is entering the pipe, it is not possible to provide a detailed, engineered sealing plan. However, a registered Professional Engineer hired by NEICO, would supervise the sealing. The Division would also be contacted and given the opportunity to have one of their on-staff engineers present.

NEICO's engineer would supervise soils excavation near the Price River. This could occur either on the pump house side of the river, or on the other side of the river immediately across from the pump house, based upon the engineer's judgement at the time. Work would not occur in the river itself or any adjacent wetlands, nor would equipment be placed in these locations. Groundwater would be intercepted within less than 10 feet of the ground surface; the pipe cannot be much deeper than that, based upon the elevation of its outlet at the Dryer Pond. Encountered water would be pumped from the excavation as needed, and properly managed to prevent erosion and subsequent sedimentation. The working area would be protected with a coffer dam if needed

and feasible.

Depending upon the condition of the pipe and the mechanism by which water enters it, an appropriate closure would be done, again in consultation with the registered Professional Engineer. Because the existing condition is not known, the exact means of closure cannot be determined. However, it could consist of a steel cap, a concrete plug, or any number of possible solutions. The chosen solution would be intended to be permanent, effective, and innocuous.

Once the pipe has been closed, it would be monitored for several weeks, both at the closure location and at the Dryer Pond outlet, to verify that the flow has stopped. The excavation would then be filled with the removed material and prepared for revegetation according to the MRP. The Dryer Pond would continue to be observed for several more weeks, prior to it being filled and regarded.

7) Remedial Action

Update Map E0-3341 (Division typographical error?; it probably means E9-3341?) To show the location of all existing structures such as the buried Clearwater pipeline.

Response

The location of the buried Clearwater Pipeline has been added to the map. It was based on an old U.S. Steel drawing stamped on 06/28/84.

8) Remedial Action

Update Map 712e to show the location of the buried culvert.

Response

The location of the buried culvert inlet at the Dryer Pond has been surveyed. The location of the inlet flowline has been inserted to Map 712e.

CONCLUSION

The above and subsequent remedial action descriptions and responses will be made "insertable" to the MRP once they have been reviewed for comments by the Division and the results from subsequent hearings regarding the NOV have been conducted

Once again, our team has attempted to respond completely to the remedial actions required by the Division. If you have questions or need additional information, please feel free to contact me.

Sincerely,

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Resident Agent/Environmental Consultant

Enclosures

cc: T. Garcia

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